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OFFICE OF PETITIONS

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In re Application of
Raphael Rembrand, et. al.
Application No. 10/607,891
Filed: June 27, 2003
Attorney Docket No. 12808.20USI1

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:
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
:

This is a decision on the petition filed September 18, 2006 and November 14, 2007, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to a prior-filed international application designating the United States of America (Application No. PCT/IL02/00069, filed January 23, 2002). The delay in responding is regretted.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED AS MOOT.**

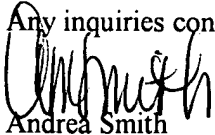
The petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application. More specifically, the amendment filed with the petition seeks to include an amendment to state that application Serial No. 10/442,495 is "a 371 of PCT/IL02/00069, filed January 23, 2002."

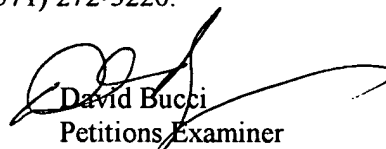
As noted in MPEP 1893.03(c)(III), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

Since the petition is unnecessary, for the reasons stated above, the petition fee is likewise unnecessary and will not be charged to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 2615, for appropriate processing of the Request for Continued Examination (RCE) and amendment filed November 14, 2007.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions


David Bucci
Petitions Examiner